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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,350	07/02/2003	David Spielmann	DT-6566	5410
30377	7590	04/09/2004	EXAMINER	
DAVID TOREN, ESQ. SIDLEY, AUSTIN, BROWN & WOOD, LLP 787 SEVENTH AVENUE NEW YORK, NY 10019-6018			ELLINGTON, ALANDRA	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,350	Applicant(s) SPIELMANN ET AL.	
	Examiner Alandra N Ellington	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "5" and "6" have both been used to designate *control cam*. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "5" has been used to designate both *adjusting sleeve* and *control cam*. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

With respect to Claim 1, Wallace et al (4,403,532) discloses a hand-held power tool, comprising a housing 20, a motor-driven shaft 14 for driving a working tool and extending in the housing 20 (col. 2 lines 3-8), and a torque cut-off device for presetting a torque of the driving shaft 14 and having a control device (col. 3 lines 54-60), the control device having a rotatable control sleeve 52 with a control cam having at least two cam

sections 48,50 and a control element 56 secured in the housing without a possibility of rotation but with a possibility of an axial displacement relative to a rotational axis of the control sleeve 52 and including at least two probing sections 26 cooperating with respective cam sections 48,50 for presetting the torque of the driving shaft 14 (col. 2 lines 7-8, col. 3 lines 35-49 {Figs. 2 and 3}).

With respect to Claim 2, Wallace et al discloses a hand-held power tool according to Claim 1, wherein the cam sections 48,50 extend, respectively, about the rotational axis of the control sleeve 52 over an angle of 360° (col. 3 lines 3-21).

With respect to Claim 3, Wallace et al discloses a hand-held power tool according to Claim 1, sections 48,50 are formed as annular sections coaxial with each other and are arranged about the rotational axis (col. 3 lines 35-42 {Figs. 2 and 6}).

With respect to Claim 4, Wallace et al discloses a hand-held power tool according to Claim 1, wherein cam sections 48,50 act parallel to a longitudinal direction of the shaft 14 (col. 3 lines 35-43).

With respect to Claim 7, Wallace et al discloses a torque cut-off device for presetting a torque of a driving shaft of a hand-held power tool, comprising a control device having a rotatable control sleeve 52 with a control cam having at least two cam sections 48,50 (col. 2 lines 3-8, col. 3 lines 54-60) and a control element secured in a housing 14 of the hand-held tool without a possibility of rotation but with a possibility of an axial displacement relative to a rotational axis of the control sleeve 52 and including at least two probing sections 26 cooperating with respective cam sections 48,50 for presetting the torque (col. 3 lines 35-49).

Allowable Subject Matter

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Whitehouse (3,666,021) discloses a power tool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alandra N Ellington whose telephone number is (571) 272-2178. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


HARSHAD PATEL
PRIMARY EXAMINER

Art Unit: 2855

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alandra Ellington
Art Unit 2855



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